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5 *Lead Counsel and Counsel for*  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 IN RE INTUITIVE SURGICAL  
SHAREHOLDER DERIVATIVE  
12 LITIGATION

13 \_\_\_\_\_  
This Document Relates To:

14 ALL ACTIONS.  
15 \_\_\_\_\_

) Lead Case No. 5-14-CV-00515-EJD  
)  
) JOINT STIPULATION TO DISMISS  
) ACTION WITH PREJUDICE  
)  
)  
) Courtroom: 4  
) Judge: Hon. Edward J. Davila  
)  
Date Action Filed: February 3, 2014

1 WHEREAS, the above-captioned action (the “Action”) was initiated derivatively by Plaintiff  
2 Robert Berg (“Berg”) on behalf of Intuitive Surgical (the “Company”), against certain former and  
3 current officers and directors of the Company on February 3, 2014;

4 WHEREAS, Berg was appointed lead plaintiff pursuant to this Court’s July 30, 2014 Order;  
5 WHEREAS, City of Plantation Police Officers’ Employees’ Retirement System (“Plantation”  
6 and collectively with Berg, “Plaintiffs”), plaintiff in the related shareholder derivative action caption  
7 *City of Plantation Police Officers’ Employees’ Retirement System v. Guthart*, C.A. No.9726-CB  
8 pending in the Delaware Court of Chancery (the “Delaware Action”), stayed the Delaware Action and  
9 joined Berg to prosecute the Action in August 2014;

10 WHEREAS, on May 31, 2015, the parties stipulated to stay the Action and advised the Court  
11 that Berg and Plantation were litigating the claims in the Action along with the state court plaintiffs in a  
12 related derivative action pending in Superior Court of the State of California, County of San Mateo,  
13 captioned *Public School Teachers’ Pension & Retirement Fund of Chicago v. Guthart et al.*, No. CIV-  
14 529630 (Cal. Super. Ct.) (the “State Court Action”).

15 WHEREAS, the Action was stayed pursuant to this Court’s June 2, 2016 Order, pending the  
16 outcome of the State Court Action (ECF No. 108);

17 WHEREAS, Berg and Plantation intervened in the State Court Action and actively participated  
18 in its litigation, including reviewing documents, attending and taking depositions of critical witnesses,  
19 and otherwise assisting in the preparation of the State Court Action for trial;

20 WHEREAS, on August 8, 2017, the parties entered into an agreement to settle all of the  
21 derivative actions (the “Settlement”);

22 WHEREAS, the parties to three derivative actions agreed to present the proposed Settlement for  
23 approval to the Superior Court of the State of California, County of San Mateo;

24 WHEREAS, the Superior Court of the State of California, County of San Mateo held a hearing  
25 on the derivative plaintiffs’ motion for preliminary approval of the Settlement on August 9, 2017;

26 WHEREAS, on August 9, 2017, the Superior Court of the State of California, County of San  
27 Mateo approved a long-form Notice of Hearing and Proposed Derivative Settlement, and a Summary  
28

1 Notice regarding the same, and notice of the Settlement and its terms was accordingly provided to  
2 stockholders;

3 WHEREAS, the Superior Court of the State of California, County of San Mateo held a final  
4 approval hearing on October 20, 2017, at which it afforded any interested stockholders the opportunity  
5 to be heard regarding the Settlement, thereby fulfilling the notice requirements of Federal Rule of Civil  
6 Procedure 23.1;

7 WHEREAS, the Settlement was finally approved by the Superior Court of the State of  
8 California on October 20, 2017;

9 WHEREAS, pursuant to the terms of the Settlement, Plaintiffs seek to dismiss the claims  
10 asserted in the Action;

11 WHEREAS, no compensation in any form has been passed directly or indirectly from any of the  
12 defendants to Plaintiffs or Plaintiffs' counsel other than that ordered in the State Court Action;

13 NOW THEREFORE, the parties to the above-captioned Action, through their respective  
14 counsel, stipulate and agree, subject to approval of the Court, as follows:

- 15 1. Pursuant to the parties' Settlement, this Action shall be dismissed with prejudice; and  
16 2. Each party is to bear his, her, or its own costs.

17 IT IS SO STIPULATED AND AGREED, this 26th day of December, 2017.

18  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on December 26, 2017, I authorized the electronic filing of the foregoing  
3 with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the  
4 e-mail addresses denoted on the attached Electronic Mail Notice List.

5 I certify under penalty of perjury under the laws of the United States of America that the  
6 foregoing is true and correct. Executed on December 26, 2017.

7  
8 /s/ Brett D. Stecker  
9 BRETT D. STECKER

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# Mailing Information for a Case 5:14-cv-00515-EJD In re Intuitive Surgical Shareholder Derivative Litigation

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## Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)